

Application Serial No. 09/773,535

Attorney Docket No. 52493.000152

REMARKS

The October 26, 2004 Office Action has been received and its contents carefully considered. Claims 1-76 are pending in the present application. By this amendment, claims 1, 21, 23, 25, 26, 27, 45, 47, 49, 50, 51, 56, 60, 61, 62, 66, 67 and 74 are amended.

For the reasons set forth below, the claims are believed to be in condition for allowance.

A. The Objection to the Disclosure

In the Office Action, the disclosure is objected to because of an informality. The disclosure has been amended to cure the informality.

B. The Claim Objections

In the Office Action, claims 1-22, 27-46, and 51-66 are objected to for lacking antecedent basis. Further, claims 25, 49-50, 60 are objected to as being inconsistent with the statutory class used for the invention in the parent claim. Claim 60 is objected to under 37 C.F.R. 1.75 as being a substantial duplicate of claim 58. The Examiner is respectfully requested to reconsider this objection as claims 58 and 60 recite different features. In particular, claim 60 recites performing error processing in a particular situation, in contrast to, for example, claim 59, which recites error processing in a different situation. Further, claims 74-76 are objected to because of asserted minor informalities.

Except as otherwise noted, the claims have been amended to address such asserted deficiencies. It is submitted that the claims satisfy all formal requirements.

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C. The 35 U.S.C. §112 Rejection

In the Office Action, claims 26, 62, and 67 are rejected under 35 U.S.C. 112, second paragraph for lacking antecedent basis. The claims have been amended to address such asserted deficiencies.

D. THE CLAIMS DEFINE PATENTABLE SUBJECT MATTER

I. The 35 U.S.C. §102 and 35 U.S.C. §103 rejections set forth in the Office Action are addressed in turn below. Applicant respectfully submits that Leveridge and the other applied fail to teach or suggest the claimed invention.

II. Claims 1-2, 13-14, 16-17, 23-24, 26-29, 34, and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Leveridge WO 99/00958. This rejection is respectfully traversed.

Claim 1 recites a method for transmitting data comprising retrieving a file from a destination based transmit folder; encrypting the file with an encryption process associated with the destination based transmit folder; and transmitting the file to an outgoing folder for transmission to a destination, which is associated with the destination based transmit folder.

The Office Action asserts that as per claims 1 and 23, Leveridge teaches a method for transmitting data comprising retrieving a file from a destination based transmit folder (page 22, lines 18-21), encrypting the file with an encryption process associated with the destination based transmit folder (page 22, lines 4-17), and transmitting the file to an outgoing folder for transmission to a destination (page 24, lines 14-17 and fig. 9, element 124). Applicant submits that such is a mischaracterization of the teachings of Leveridge.

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On page 22, lines 4-17, Leveridge teaches that a short name included in each transfer type is a unique short name for that transfer type, which is sent during client/server file transfers to identify the transfer type. Leveridge further describes the longer name of each transfer type is a descriptive name which is displayed to the user to allow the user to identify and select the transfer type. Leveridge further teaches the *encryption type indicator in each transfer type* has three possible settings, namely "none", "normal" or "delayed". If the indicator is "none", no encryption is used during upload/download of files. If the indicator is "normal" the files are encrypted/decrypted during upload/download from the SFTS (secure file transfer server) by the security layer of the client terminal and by the SFTS itself. Leveridge explains, if the indicator is "delayed" the files are encrypted/decrypted during upload/download from the server, as is the case for "normal", and the file is also encrypted a second time prior to transmission with an "embargo" key.

Accordingly, Leveridge clearly teaches various processing associated with encryption. However, Leveridge appears to teach the particular encryption of a file is controlled by an encryption type indicator in each transfer type. Such approach is fundamentally different than the claimed invention, as recited in claim 1. That is, claim 1 recites retrieving a file from a destination based transmit folder; and encrypting the file with an encryption process associated with the destination based transmit folder. Accordingly, claim 1 recites a particular interrelationship between the used encryption process and the destination based transmit folder, from which the file was retrieved. In other words, the particular encryption process used is based on what destination based transmit folder the file is disposed in prior to being retrieved. Leveridge fails to teach or suggest such claimed interrelationship.

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The Office Action also refers to Leveridge's teachings on page 24. Applicant submits that such teachings of Leveridge are no more relevant than those discussed above. For example, Leveridge teaches that when an uploaded file is received by the SFTS, the file is generally processed by the pre-processor 108, the FTPS and the post-processor 122, and is sent to the outbox 124 of the intended recipient of the file. However, such disclosure of Leveridge fails to teach or suggest the claimed interrelationship recited in claim 1, relating to encrypting the file with an encryption process associated with the destination based transmit folder.

Further, Applicant notes page 22, lines 18-25, of Leveridge. Leveridge teaches the output directory name is a suggested directory where files for this particular type of transfer are to be retrieved from for sending. When selecting files for upload the FSC takes the user to this directory, although the user is still able to select files from a different directory. Leveridge further describes the input directory name is a suggested directory where files for this particular type of transfer are to be stored on receipt. When downloading a file, the FRC places the file in this directory unless otherwise specified by the user. Such disclosure of Leveridge also fails to teach or suggest the claimed invention. Rather, Leveridge's teachings relate to a suggested directory where files for a particular type of transfer are to be retrieved from for sending, for example. Applicant respectfully submits that Leveridge fails to teach that the particular folder (in which the file is retrieved) is associated with the encryption to be used, as recited in claim 1.

Also, with reference to claims 2 and 24, the Office Action asserts that Leveridge teaches the method further comprising retrieving the encryption process associated with the destination based transmit folder from an encryption database on page 21, line 4 to page 22, line 17 depicted as element 126 in fig. 9. Applicant submits that Leveridge does indeed describe a file transfer

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parameter database 126. However, Leveridge does not teach the claimed interrelationship between the destination based transmit folder and the encryption process, as recited in claim 1. Rather, Leveridge teaches use of an encryption indicator, for example (see Leveridge page 22, line 1)

On page 7, the Office Action asserts with reference to claim 27, Leveridge teaches decrypting the file with a decryption process associated with the destination based received folder (page 22, lines 4-17). Applicant submits such teachings of Leveridge on page 22 are discussed above. Applicant respectfully submits that Leveridge, on page 22 lines 4-17, fails to teach a "destination based received folder", much less the claimed interrelationship between the destination based received folder and the decryption process. The Examiner is respectfully requested to clarify the manner in which Leveridge allegedly teaches such claimed features.

Applicant submits that claim 1 recites patentable subject matter at least for the reasons set forth above. Claims 23, 27 and 47 recite patentable subject matter at least for reasons similar to claim 1. Further, the various dependent claims recite patentable subject matter at least based on their dependencies on the respective independent claims, as well as the additional features such dependent claims recite.

Withdrawal of the rejection under 35 U.S.C. §102 is respectfully requested.

III. The Applied Combination of Art Fails to Teach or Suggest the Claimed Invention

IV. In the Office Action, claims 3, 5, 8, 20-22, 25, 40-42, 44-46, 50-52, 54-57, 61-62, 65-67, 70, 72-73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 as applied to claims 1 (for claims 3, 13, and 20-22), 3 (for claim 8), 23 (for claims 25 and 26), 27 (for claims 40-42 and 44-46), 47 (for claim 50), 51 (for claims 54-55),

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61 (for claim 65), 66 (for claim 70), 71 (for claims 72-73), and 74 (for claim 75), and further in view of Ote United States Patent No. 6,023,506.

The Examiner is respectfully requested to clarify the application of the applied art vis-à-vis the claims. For example, the Office Action (as noted in the preceding paragraph) asserts "...as applied to claims 1 (for claims 3, 13, and 20-22)". However, claim 13 is rejected under 35 U.S.C. §102, and not under the teachings of Leveridge and Ote. Similarly, in the Office Action (line 3 of section IV), the assertion "23 (for claims 25 and 26)" is confusing in that claim 25 is rejected under 35 U.S.C. §103 and claim 26 is rejected under 35 U.S.C. §102. Further, the phrase "as applied to ... 3 (for claim 8)" is confusing in that both claims 3 and 8 are rejected under 35 U.S.C. §103. The Examiner is requested to clarify the asserted basis of the applied rejections.

The Office Action asserts, with regard to claim 3, for example, that Leveridge teaches a method of transmitting data, and not explicitly disclosed by Leveridge is the method further comprising verifying that the file has been encrypted. The Office Action reflects, however, Ote teaches the method further comprising verifying that the file has been encrypted; and therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to incorporate a step to verify that the file was indeed encrypted.

Applicant submits that even if it would have been obvious to modify Leveridge as proposed in the Office Action, which it is not so admitted, such modification of Leveridge would fail to cure the deficiencies of Leveridge as discussed above.

Regarding one aspect of the invention, the Office Action discusses directories. For example, the Office Action provides a definition of a "directory - the name for a logical

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container for files. The Office Action asserts directories were devised to organize files. Further, the Office Action asserts that without directories, all the files on your hard drive would be in one big listing, and that when you request a list of files from a computer, you generally only see the files within one directory. The Office Action further asserts directories can contain files and/or other directories, and that nowadays, most operating systems are calling directories "folders, but we know what they really are.

In response, Applicant of course acknowledges that directories are old and notoriously well known. However, the claimed invention does not of course recite generally the use of directories. Applicant submits the art fails to teach the claimed interrelationship between the "destination based transmit folder" vis-à-vis the encryption processes (as recited in claim 51, for example), and also fails to teach the claimed interrelationship between the "destination based received folder" vis-à-vis the decryption processes (as recited in claim 61).

With regard to claims 51 and 56, the Office Action asserts that not explicitly disclosed by Leveridge is the method automatically retrieving data from a destination based transmit folder or automatically retrieving an encryption process associated with the destination based transmit folder. Based on Applicant's comments set forth above, Applicant submits that Leveridge does not indeed teach such features.

The Office Action goes on to assert that however, Leveridge teach a method for each recipient maintaining an updated directory, and that therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to use this automatic update feature to allow for an automatic method of data retrieval from a destination based transmit folder. The Office Action further asserts that this

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modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Leveridge on page 24, lines 17-22.

In response, Applicant notes that such teaching of Leveridge talks that each recipient outbox keeps an updated directory of files to be downloaded to the recipient, for example. However, Leveridge does not teach the claimed association between an encryption process and a destination based transmit folder, as recited in claim 56, for example.

The Office Action further asserts that as for automatically retrieving an encryption process, Ote teaches that. The Office Action asserts therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to use this automatic encryption process associated with the destination based transmit folder as previously discussed; and that this modification would have been obvious because a person having ordinary skill in the art at the time the invention was made, would have been motivated to do so since it is suggested by Ote in col. 1, line 33 - col. 2, line 6.

Applicant respectfully submits that Ote fails to cure the deficiencies of Leveridge. In the referenced section of Ote, Ote teaches that an object of the Ote invention is to provide a file encryption control apparatus and method, which releases the user from the management of the encryption key and the encrypted files which make it possible to encrypt files by effecting a simple manipulation, i.e., by selecting a plain text file on the screen and by starting the encryption processing by means of a graphic metaphor such as an icon. Applicant notes that such teaching of Ote relates to associating a file with an encryption process. However, the claimed invention as recited in claim 56, does not merely generally associate an encryption



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process to a file. Rather, claim 56 recites means for automatically retrieving an encryption process associated with the destination based transmit folder. Such feature relates to a clear association between a particular folder and an encryption process, which is not taught or suggested by the applied art.

Further, the Office Action proposes to modify Leveridge with respect to various other aspects of the claimed invention, including verification that a file has been encrypted, moving the file to an error directory, transmitting the file, performing a scan for encryption key software to find the encryption process, transmitting a list of files, and using data compression. However, Applicant submits that even if it were obvious to so modify Leveridge, which it is not admitted to be, such modifications of Leveridge would still fail to teach or suggest the claimed invention, as recited in the independent claims.

Applicant has reviewed the various other remarks set forth in the rejection and the various proposed modifications of the applied art. It is respectfully submitted that Leveridge and Ote fails to teach the claimed invention in that Ote fails to cure the deficiencies as discussed above.

Accordingly, Applicant submits that claims 51, 56, 61 and 66 recite patentable subject matter. Further, the various dependent claims recite patentable subject matter at least based on their dependencies on the respective independent claims, as well as the additional features such dependent claims recite.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

V. In the Office Action, claims 4, 53, 58-60, 63-64, and 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 and Ote United States Patent

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No. 6,023,506 as applied to claims 3, 51, and 56 above, and further in view of Brundrett United States Patent No. 6,249,866.

The Office Action proposes to modify the teachings of Leveridge and Ote based on the teachings of Brundrett. For example, the Office Action proposes to rely on the teachings of Brundrett related to transferring the file to a temporary folder and checking if all files in the temporary folder have been encrypted to verify the encryption; checking the temporary files for verifying the encryption; transferring the data to a temporary folder for verification; and error processing.

Applicant does not admit that such modifications are obvious to the one of ordinary skill in the art. However, while the Office Action proposes to modify the teachings of Leveridge and Ote in view of the teachings of Brundrett, such proposed modification would still fail to teach the features of the independent claims discussed above, i.e., such as the feature of "encrypting the file with an encryption process associated with the destination based transmit folder" as recited in claim 1.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

VI. In the Office Action, claims 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 and Ote United States Patent No. 6,023,506 as applied to claim 3 (for 6 and 9) above and 6 (for claim 7) below and further in view of Lockhart United States Patent No. 5,841,873. This rejection is respectfully traversed.

The Office Action proposes to modify the teachings of Leveridge and Ote based on the teachings of Lockhart. For example, the Office Action proposes to rely on the teachings of

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Lockhart related to recording information about the file in an error log and transmission of a generated error message.

Applicant does not admit that such modifications are obvious to the one of ordinary skill in the art. However, while the Office Action proposes to so modify the teachings of Leveridge and Ote in view of the teachings of Lockhart, such proposed modification would still fail to teach the features of the independent claims discussed above, such as "encrypting the file with an encryption process associated with the destination based transmit folder" as recited in claim 1.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

VII. In the Office Action, claims 10-11, 19, 31, 36-37, 71, 74, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 as applied to claims 1 (for 10-11, and 19) and 27 (for claims 31 and 36-37).

The Office Action proposes to further modify Leveridge to transmit a notification of encryption failure of the file to the destination if the file fails encryption; to incorporate a step to move files failing encryption to a directory; to incorporate a step to send a notification to the destination so that the recipient is aware that the file has been transmitted; an encryption module and an error module; and a verification module to verify that the decryption was successful.

Applicant does not admit that such modifications are obvious to the one of ordinary skill in the art. However, while the Office Action proposes to so modify the teachings of Leveridge, such proposed modification would still fail to teach the features of the independent claims discussed above, such as "encrypting the file with an encryption process associated with the destination based transmit folder" as recited in claim 1.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

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VIII. In the Office Action, claims 15 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 as applied to claims 1 and 27 above and further in view of Berman United States Patent No. 5,995,939.

In the rejection of claims 15 and 39, the Office Action proposes to modify Leveridge with the teachings of Berman. Specifically, the Office Action asserts that it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to retrieve new files found in the updated directory after a predetermined time interval. The Office Action reflects that this modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Berman in col. 6, line 28 - col. 7, line 44.

Applicant does not admit that such modification to Leveridge would have been obvious to the one of ordinary skill in the art. However, while the Office Action proposes to so modify the teachings of Leveridge, such proposed modification would still fail to teach the features of the independent claims discussed above, such as "encrypting the file with an encryption process associated with the destination based transmit folder" as recited in claim 1.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

IX. In the Office Action, claims 18, 30, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 as applied to claims 1, 29, and 27 above and further in view of Brundrett United States Patent No. 6,249,866.

The Office Action proposes to modify the teachings of Leveridge with Brundrett. In particular, the Office Action asserts that as per claim 18, Leveridge substantially teaches a method of transmitting data, but that not explicitly disclosed by Leveridge is that method

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wherein the encryption process comprises a public key for encoding the file. The Office Action asserts that however, Brundrett teaches the method wherein the encryption process comprises a public key for encoding the file; and that therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to incorporate a step to encrypt the file with a public key; and that this modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Brundrett in col. 9, lines 64-66. Applicant submits that even if it were obvious to so modify Leveridge with the teachings of Brundrett relating to a public key, which it is not so admitted, such modified Leveridge would fail to cure the deficiencies of Leveridge discussed above. Similarly, Applicant submits that even if it were obvious to so modify Leveridge with the teachings of Brundrett relating to a private key, which it is not so admitted, such modified Leveridge would also fail to cure the deficiencies of Leveridge discussed above.

With regard to claim 30, the Office Action asserts it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to incorporate a step into the verification of encryption to transfer the file to a temporary folder and check that they were indeed encrypted. The Office Action explains that this modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Brundrett in col. 18, lines 50-56; and that also, it would have been obvious to check the temporary files for verifying the encryption because it is suggested that Brundrett verify the success in col. 18, lines 6-12 and in fig. 22, element 2212. The Office Action further asserts Brundrett discloses a method for

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encryption thus it is obvious for use in decryption as well since decryption is the "converse operation" of encryption as stated in col. 18, lines 17-19.

Applicant does not admit that such modifications are obvious to the one of ordinary skill in the art. However, while the Office Action proposes to so modify the teachings of Leveridge, such proposed modification would still fail to teach the features of the independent claims discussed above, such as decrypting the file with a decryption process associated with the destination based received folder, as recited in claim 27.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

X. In the Office Action, claims 12, 32-33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge WO 99/00958 as applied to claims 1, 29, and 27 above and further in view of Lockhart United States Patent No. 5,841,873.

The Office Action proposes to modify the teachings of Leveridge based on the teachings of Lockhart. Specifically, the Office Action asserts that it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Leveridge to incorporate a step to record information about the file in an error log if the file fails the encryption process; to incorporate a step to record information about the file in an error log if the file fails the verification process; and to incorporate a step to transmit a portion of the error log to the destination once the error log was recorded after the failed verification process.

Applicant does not admit that such modification to Leveridge based on the teachings of Lockhart would have been obvious to the one of ordinary skill in the art. However, while the Office Action proposes to so modify the teachings of Leveridge, such proposed modification would still fail to teach the features of independent claims 1 and 27 as discussed above, such as

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"encrypting the file with an encryption process associated with the destination based transmit folder" as recited in claim 1.

Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

E. CONCLUSION

Applicant has reviewed the various grounds of rejection as set forth in the Office Action. It is respectfully submitted that the applied art, and in particular Leveridge and Ote, fail to teach or suggest the claimed invention for the reasons set forth above.

Applicant respectfully submits that the application, as amended, is in condition for allowance. If the Examiner believes that prosecution might be advanced by discussing the application with Applicants' counsel, in person or over the telephone, we would welcome the opportunity to do so.

In the event any fees are due, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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